

THE MISUSE AND ABUSE OF SPECIAL ASSESSMENTS IN MICHIGAN

The construction and maintenance of local public improvements can be financed by special assessments on property receiving a special benefit from the improvement. Historically, special assessments were used to finance capital improvements and levied against property in a limited geographical area, a special assessment district. However, "public improvements" have been expanded in recent years to include police and fire, refuse collection, and other municipal services. The local governments authorized to assess for these operating services levy the assessment throughout the entire jurisdiction on an ad valorem basis (on the value of the property), thereby imposing a "special assessment" that strongly resembles a general ad valorem property tax. In many instances the administration of ad valorem special assessments does not comply with the requirements of state law:

- Special assessment statutes and case law require that the property specially assessed receive a benefit from the improvement differing from the benefit to the general public and that the linkage between assessments levied and benefits received be clear and direct. Many municipal operating services primarily benefit individuals and the general public rather than property and in many instances the linkage between property value and benefit received is tenuous at best.
- Special assessments are not subject to the constitutional and statutory restrictions on the rate and duration of general ad valorem property taxes, yet are frequently indistinguishable from them.
- While all real property, including property normally exempt from property taxes, is subject to special assessments, many jurisdictions levy special assessments on only the real property that is subject to the general ad valorem property tax.
- Personal property is exempt from special assessments, but many units levy special assessments on tangible personal property as well as real property.
- The state follows no consistent practice in dealing with these ad valorem special assessments. It treats them as general ad valorem property taxes in calculating the statewide average property tax rate levied on certain public utilities; it excludes them in calculating the local reimbursement for inventory, but includes them in calculating relative tax effort for local revenue sharing; and, while special assessments are explicitly excluded from the state homestead property tax credit, many taxpayers undoubtedly claim them because the taxpayer is unable to tell the difference between the ad valorem general property tax and an ad valorem special assessment.

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In Memoriam

We report with sorrow the death on October 6, 1983, of Mr. Allen W. Merrell who had served as a member of the Board of Directors of the Research Council since 1972, and as its President 1972-1976. His efforts on behalf of good government in Michigan exemplified outstanding citizenship.

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The extent of these problems cannot be measured due to inadequate reporting to the state department of treasury by local units of governments. However, 87 special assessment districts have been identified in 61 taxing jurisdictions (total levy \$18.2 million). It appears that the number of units and total levy involved may be significantly larger than this. In many cases these special assessments appear to be levied in conflict with state law, are inappropriately classified as a general property tax, or both.

Both short- and long-term measures are required to correct these problems. In the short run, the administration of the various ad valorem special assessments must be brought into conformance with existing law. Local units must levy taxes and assessments only in the manner authorized by law and counties should more actively carry out their responsibility of assuring that those levies conform to the law. In the long run, state policymakers need to examine whether jurisdiction-wide ad valorem special assessments are an appropriate method for financing municipal services or are becoming simply a means of circumventing constitutional and statutory property tax limits.

A TALE OF TWO TOWNSHIPS

The ad valorem special assessments levied in Canton and Redford Townships in Wayne County illustrate the problem. In 1982 Canton Township imposed special assessments on an ad valorem basis for police and fire protection. The special assessment levy was 6.46 mills and was imposed on just the real property subject to the general ad valorem property tax. Redford Township imposed ad valorem special assessment levies in 1982 for street lighting, police, and rubbish collection. A total of 4.23 mills was levied on all real and tangible personal property in the township subject to the general ad valorem property tax. Neither unit levied the special assessments on real property exempt from the general property tax and Redford Township levied the tax on tangible personal property while state law provides that the assessment be levied only on “lands and premises.”

Under state law, the county board of commissioners is responsible for verifying the accuracy and legality of all taxes and other charges, including special assessments, imposed by the townships within the county. In 1982, the Wayne County Board of Commissioners approved the special assessments in both Canton and Redford, and directed the special assessments be spread on the assessment roll despite the fact that exempt property was not included and that in Redford the special assessments were levied on tangible personal property. When the state department of treasury calculated the aggregate statewide property tax levy for 1983, the special assessments levied in Canton and Redford Townships were included in the total general property tax levy.

A more detailed discussion of ad valorem special assessments is provided in a “white paper” available on request from the Research Council.